

Before the  
Federal Communications Commission  
Washington, DC 20554

In the Matter of	)	
	)	
Federal-State Joint Board on	)	CC Docket No. 96-45
Universal Service	)	
	)	WC Docket No. 05-337
High-Cost Universal Service Support	)	

**REPLY COMMENTS OF THE**  
**SOUTH DAKOTA TELECOMMUNICATIONS ASSOCIATION**

The South Dakota Telecommunications Association (SDTA), by its attorneys, hereby files reply comments in support of the commenters opposing Puerto Rico Telephone Company's (PRTC) Petition for Clarification and/or Reconsideration (Petition). In the Petition, PRTC requests that the Commission adopt, on an interim basis, a non-rural insular high-cost universal service mechanism based on embedded cost calculated using Part 36 of the Commission's rules. According to PRTC, its high-cost funding began to be reduced in 2001 pursuant to Commission action. Further, whereas the penetration rate for service in Puerto Rico increased to over 70% in 1996, the penetration rate has fallen back to below 70%. PRTC requests interim support based on its embedded cost pending the Commission's comprehensive review of the high-cost universal service support program.

In this proceeding, the Commission asks for comments on its tentative conclusion that an interim insular mechanism based on embedded cost is the appropriate measure to help reverse subscribership trends in Puerto Rico. The Commission also asks how previous Commission decisions affect its tentative conclusion that a new interim support

mechanism for non-rural areas based on embedded cost should be established. Based on its proposed definition of “insular areas,” the Commission tentatively concludes that adopting a non-rural insular mechanism would have a limited impact on the universal service fund because the mechanism only would affect carriers operating in the Commonwealth of Puerto Rico.

SDTA supports the comments of Dobson Cellular Systems, Inc. that the Commission should not adopt an insular, non-rural support mechanism until it completes the pending proceedings regarding universal service reform.<sup>1</sup> In addition, SDTA urges the Commission to deny PRTC’s request because it would conflict with Section 54.305(a) of the Commission’s rules and, as a result, provide more favorable treatment to PRTC and Verizon, its parent company, than that which is available to rural carriers that acquire exchanges. Grant of PRTC’s request also would be inconsistent with the Commission’s goals of targeting support to rural areas.

PRTC’s request and the Commission’s tentative conclusions conflict with the Commission’s long-standing policy, as reflected in Section 54.305(a) of the Commission’s rules, that a carrier acquiring exchanges from an unaffiliated carrier shall receive the same per-line levels of high-cost universal service support for which the acquired exchanges were eligible prior to their transfer.<sup>2</sup> It should be noted that Verizon Communications acquired PRTC from GTE in June, 2000, after the Commission found that support for PRTC would be based on the forward-looking cost model. Further, the

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<sup>1</sup> Comments of Dobson Cellular Systems, Inc. at 11.

<sup>2</sup> Similarly, Section 54.311(d)(1) states that interim hold-harmless support for a wire center transferred to a carrier that does not meet the definition of rural telephone company shall be phased down following the transfer over the same time period as the seller’s support would have been phased down.

effect of providing high-cost support to PRTC based on its embedded cost would be to grant PRTC, and its parent company Verizon, millions of dollars more in universal service support than the support available to the acquired exchanges prior to the transfer.

Under the Commission's rules, non-rural carriers, like PRTC and Verizon, are not eligible for any additional support for an acquired exchange. Further, when a rural carrier acquires an exchange, the only additional high-cost support available under Section 54.305 is "safety valve" support, which is available only to rural carriers that make substantial investment after acquiring exchanges.<sup>3</sup> Even safety valve support, however, is limited to no more than 50 percent of any positive difference between the rural incumbent local exchange carrier's index year expense adjustment for the acquired exchanges and subsequent year expense adjustments.<sup>4</sup> In addition, total safety valve support available to all eligible study areas is limited further to no more than five percent of rural incumbent local exchange carrier support available from the annual high-cost loop fund.

The Commission has been very strict in its application of Section 54.305. For example, the Commission denied in part Valor's request for a waiver of Section 54.305 to allow it to receive high-cost support for lines acquired from GTE based on the average cost of all of its access lines, including the acquired lines, rather than limiting the per-line level of support for the acquired lines to the amount of support for which they were

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<sup>3</sup> See *Federal-State Joint Board on Universal Service; Multi- Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, Fourteenth Report and Order, Twenty-Second Order on Reconsideration, and Further Notice of Proposed Rulemaking in CC Docket No. 96-45, and Report and Order in CC Docket No. 00-256, 16 FCC Rcd 11244, 11282, para. 97 (2001), as corrected by Errata, CC Docket Nos. 96-45, 00-256 (Acc. Pol. Div. rel. June 1, 2001) (*Rural Task Force Order*).

<sup>4</sup> See *id.* at 11285, para. 98.

eligible prior to their transfer. In its Petition, Valor argued that it needed more support because of unanticipated costs to provide new facilities and upgrade existing facilities and other factors beyond its control. In denying Valor's request, the Commission did not dispute any of the conditions alleged by Valor, rather, the Commission simply found that Valor had the opportunity to know of the conditions and costs, as well as the amount of support that would be available pursuant to the Commission's rules, before it acquired the exchanges. According to the Commission:

“Valor had the opportunity to evaluate, before purchasing these exchanges from GTE, the state of the network, the costs it would need to incur for any upgrades, and the amount of transferred support that it would receive. We are not convinced that Valor could not have identified all of these issues prior to making its decision to purchase the lines from GTE. To the extent Valor claims that it faces higher costs than most price caps carriers because it serves “overwhelmingly rural lines,” Valor should have taken this into account when deciding to purchase these lines.”

The same could be said to PRTC and Verizon now. Verizon knew support would be based on forward looking costs. Verizon knew the state of the network. And Verizon should have taken this into account when deciding to purchase PRTC.

A number of small, rural carriers have acquired exchanges that previously were operated by non-rural carriers and upgraded those facilities without the benefit of additional universal service support or with only minimal increases in support, because of the application of rule Section 54.305. Furthermore, these rural carriers did not have the economies of scale and scope found in Puerto Rico and the significant financial backing of Verizon. It must be noted that the Commission refused to classify PRTC as a rural carrier based on its finding that PRTC, as the twelfth largest telephone company in the nation, “should possess economies of scale and scope to deal efficiently with the cost of

providing service” in its area.<sup>5</sup> It would be an inequitable result to allow PRTC and its parent company Verizon, through the guise of a request for “insular” support, to obtain more universal service support for an acquired exchange than that which is available to small, rural carriers. Moreover, it would be inequitable, and inconsistent with the Commission’s goal of targeting support to rural areas, to provide additional support to a non-rural area like Puerto Rico.

Based on the foregoing, the Commission should deny PRTC’s Petition.

Respectfully submitted,

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<sup>5</sup> *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776 (1997) (*First Report and Order*) (subsequent history omitted).

## **CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing Reply Comments of the South Dakota Telecommunications Association were delivered by first class mail, postage prepaid, or by electronic mail, as indicated, on this the 25<sup>th</sup> day of May , 2006, on the parties listed below.

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